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*Attorneys for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

THE HARNICK BROTHERS PARTNERSHIP,  
MARTIN R. HARNICK & STEVEN P. NORTON  
PARTNERS, MARTIN HARNICK, individually and  
in his, capacities as general partner of The Harnick  
Brothers Partnership and Martin R. Harnick & Steven  
P. Norton Partners, THE ESTATE OF STEVEN  
HARNICK, THE STEVEN HARNICK

Adv. Pro. No. 10-05157 (SMB)

REVOCABLE LIVING TRUST DATED APRIL 2, 2002, BARBARA JUNE LANG, individually and in her capacities as the personal representative of the ESTATE OF STEVEN HARNICK and trustee of the STEVEN HARNICK REVOCABLE LIVING TRUST DATED APRIL 2, 2002, MICHELLE GLATER, and PAMELA HARNICK,

Defendants.

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### **NOTICE OF MEDIATION REFERRAL AND MEDIATOR SELECTION**

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On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)<sup>1</sup> [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on November 30, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

Pursuant to the Avoidance Procedures, the Trustee and Defendants may jointly agree to enter mediation prior to or upon completion of discovery without further court order. Avoidance Procedures, ¶ 5A. Through this Notice of Mediation Referral and Mediator Selection, the Trustee and Defendants (the “Parties”) hereby state that they have completed discovery in the above-referenced adversary proceeding and agree to be referred to mandatory mediation at this time.

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<sup>1</sup> All terms not defined herein shall be given the meaning ascribed to them in the Order.

Further, pursuant to the Avoidance Procedures and the Mediation Order, the Parties hereby mutually select the Honorable Allen Hurkin-Torres (Ret.) to act as Mediator in this matter.<sup>2</sup> The Parties further agree to contact the Honorable Allen Hurkin-Torres as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person's law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

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<sup>2</sup> The parties note that Judge Hurkin-Torres is not on the Register of Mediators for the United States Bankruptcy Court for the Southern District of New York, but both parties have consented to use Judge Hurkin-Torres.

Dated: September 30, 2020  
New York, New York

**BAKER & HOSTETLER LLP**

Of Counsel:

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Liquidation of Bernard L. Madoff Investment  
Securities LLC and the Estate of Bernard L.  
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